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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,560	03/17/2004	Ellen Glassman	SOA-394	5967
23353	7590	12/20/2005	EXAMINER	
RADER FISHMAN & GRAUER PLLC			YOO, JASSON H	
LION BUILDING			ART UNIT	
1233 20TH STREET N.W., SUITE 501			PAPER NUMBER	
WASHINGTON, DC 20036			3714	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/803,560	GLASSMAN ET AL.	
	Examiner	Art Unit	
	Jasson Yoo	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ortiz et al. (U.S. Patent Application Publication US 2003/0112354).

Regarding claims 1 and 14, Ortiz et al. disclose a system and method that comprises respective means and steps for:

detecting a first device (hand held device 703 or 707 is detected by another device VPS device 702, 704,, 706, 708 of Figure 18 along with the related description thereof);

detecting a status level corresponding to the first device (paragraph [0058], wherein an authorization level of the hand held device 703 corresponds to the claimed "status level" and wherein the authorization level is detected to allow the device 703 to receive venue-provided content);

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detecting a second device (VPS devices 702, 704, 707, 708) within a proximity of the first device (hand held device 703 or 707) (paragraphs [0152] – [0156], the hand held device communicates with the VPS device by detecting its signal when the VPS device is within a proximity of the first device);

receiving content on the first device based on the status level (paragraphs [0058], [0059], [0063] and [0168], wherein authorized devices receive venue content) and on the proximity of the second device (paragraphs [0150] – [0156] and Fig. 18 the proximity of the second device is within the stadium venue 701); and

displaying the content on the device based on the status level (paragraphs [0058], [0059], [0063] and [0168], wherein venue content is displayed on authorized devices) and on the proximity of the second device (paragraphs [0150] – [0156] and Fig. 18 the proximity of the second device is within stadium venue 701).

Regarding claim 3 and 12, Ortiz et al. disclose programming the first device with the status level and storing the status level (paragraphs [0058], [0059] and [0063], wherein the first device can be programmed with authorization data, stored in the device, to ensure venue content reception and display is authorized).

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Regarding claims 4, 5, 6, Ortiz et al. disclose that the content includes an image, an audio track and a video footage (paragraph [0056], wherein content includes image, audio and video).

Regarding claims 7 and 13, Ortiz et al. disclose that patrons with hand held device 703 may be provided a temporary access or authorization code to access the venue and the wireless transmission network associated therewith for a fee (paragraph [0158]). In this manner, the device is a ticket for the venue (an entertainment event) and the device is permitted into the venue (or entertainment event) based on the access or authorization code (status level).

Regarding claims 8, 9 and 10 Ortiz et al. disclose that the entertainment event is a concert or a sporting event. Specifically, in [(paragraphs [0002], [0099] and [0149] and stadium venue 701 of Figure 18 along with the related description thereof)], Ortiz et al. teach “shot/hit/pitch charts” (paragraph [0099] lines 2-3) which is specific to a baseball game.

Regarding claim 11, Ortiz et al. disclose that the content is video of the entertainment event in real time (paragraphs [0095] [0096] and [0100]).

Claims 15-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Sitrick et al. (U.S. Patent No. 6,508,706).

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Regarding claims 15 and 27, Sitrick et al. disclose a micro-pc (120) having computer executable instructions to perform a method comprising:

programming a first device (card 305 of Figure 3) with a first status level (a first "persona" as described in col. 7, line 65 to col. 8, line 56);

the first device (card 305) detecting a second device (card 303) having a second status level (a second "persona" as described in col. 7, line 65 to col. 8, line 56 and having different qualities than the first "persona" as described in col. 7, lines 25-28) and detecting the second device within a proximity of the first device (col. 11, lines 32-62 and Fig. 3; the second device 303, is within a proximity or same degree of filtering of the first device 305, as shown by the connection lines in Fig. 3.);

comparing the first status level with the second status level (when card 305 communicates with card 303, qualities of the first and second "persona" are exchanged and compared as described in col. 8, line 63 to col. 9, line 26);

determining a winner between the first device and the second device (interactions between cards 303, 305 are governed by game rules as described in col. 9, lines 28-56); and

displaying content on the first device based on the winner (card content of card 303, in the form of character appearance, is modified based on interactions between card 303 and card 305 as described in col. 11, lines 16-22).

Regarding claim 16, Sitrick et al. disclose participating in a contest between the first device and the second device (interactions between cards 303,

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305 are governed by game rules as described in col. 9, lines 28-56, wherein such interactions may produce a “winner” by positively modifying “persona” qualities of card 303 or card 305 as described in Figures 6A, 6B and 6C along with the related descriptions thereof).

Regarding claim 17, Sitrick et al. disclose adjusting the first status level based on the winner.

Regarding claim 18, Sitrick et al. disclose storing the first status level (card 303 includes memory to store the respective “persona” thereof as described in col. 10, lines 32-35).

Regarding claim 19, Sitrick et al. disclose that the content represents a character associated with the first device (card content of card 303, in the form of character appearance, is modified based on interactions between card 303 and card 305 as described in col. 11, lines 16-22).

Regarding claims 20 and 21, Sitrick et al. disclose that the content corresponds to the first device winning or losing a contest between the first device and the second device (card content of card 303 is modified positively for positive interactions between card 303 and card 305 and is modified negatively for negative interactions between card 303 and card 305 as described in col. 11, lines 16-22 and shown in Figures 6A, 6B, 6C along with the related description thereof).

Regarding claims 22, Sitrick et al. disclose a device comprising:

a location detection module (acoustic interface 134 of Figure 1 along with the related description thereof) to detect a location of a first device (card 303 of Figure 3 along with the related description thereof) and to detect a proximity of a second device relative the first device (col. 11, lines 32-62 and Fig. 3; the second device 303, is within a proximity or same degree of filtering of the first device 305, as shown by the connection lines in Fig. 3.);

a storage module to store a profile information associated with the device (interactions between cards 303, 305 are governed by game rules as described in col. 9, lines 28-56, wherein the game rules correspond to the "profile information");

an interface module for receiving content based on the profile information corresponding to the device and the location of the device (interactions between cards 303, 305 in close proximity as shown in Figure 3 along with the related description thereof are governed by game rules as described in col. 9, lines 28-56 and card content of card 303 is modified based on such interactions between card 303 and cards in close proximity as described in col. 11, lines 16-22); and

a display module for displaying the content on the device (card content of card 303 is modified based on such interactions between card 303 and cards in close proximity as described in col. 11, lines 16-22).

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Regarding claim 23, Sitrick et al. disclose a hierarchy module for establishing a status level of the device (persona 210 of Figure 2 along with the related description thereof establishes the "persona" as described in col. 7, line 65 to col. 8, line 56).

Regarding claim 24, Sitrick et al. disclose that the content includes one of a textual data, graphical data, video footage, audio data, and image data (col. 6, lines 45-65).

Regarding claims 25 and 26, Sitrick et al. disclose an RF tag module for transmitting profile information to other devices and for receiving profile information from other devices (acoustic interface 134 of Figure 1 transmits and receives profile information, in the form of game rules, and all other communications between all cards 301-307 of Figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ortiz et al. in view of Bergman et al. (U.S. Patent Application Publication US 2002/0038259).

Ortiz et al. disclose a device (hand held device 703 of Figure 18) as described above with respect to claim 1. Specifically, Ortiz et al. teach that the first device (703) may be used to vend products at a stadium venue (701). However, Ortiz et al. does not explicitly teach profile information associated with the device. In a related device, Bergman et al. disclose profile information (in the form of a user account as described in paragraph [0052] and Figure 15 along with the related description thereof) that is associated with a device. The profile information of Bergman et al. allows users to order and sell products at a stadium venue using the profile information. It would have been obvious for one skilled in the art at the time of the invention to incorporate the profile information as taught by Bergman et al. into the device taught by Ortiz et al. in order to order and sell products at a stadium venue as desirably taught by Bergman et al. in paragraph [0010].

Response to Arguments

Applicant's arguments filed 4/6/2005 have been fully considered but they are not persuasive.

Regarding claims 1-14, applicant argued Ortiz et al. reference does not teach the detection of a second device within a proximity of the first device. Ortiz

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et al. teach the second device (VPS devices) detect the signal of the first device (hand held device) (paragraph 152). The VPS device also transmits information to the hand held device. Therefore the handheld device detects the signal of the VPS device in order to receive the transmitted information from the VPS device (paragraph 153). The proximity of both device is within the stadium venue 701, and more specifically, within sections (section A and B according to Fig. 18 and paragraphs 149-156). The contents received and displayed by the hand held device is based on status level and the proximity of the second device (The VPS device send information to the hand held device through the wireless gateway 124; paragraphs 149-156).

Regarding claims 15-27, applicant argued Sitrick et al. does not teach detecting the second device within a proximity of the first device. The cards may interact directly with each other as shown by the connection lines in Fig. 3, and a filtering process (paragraphs 32-53). Therefore card 303 in Fig. 3 can detect (communicate directly) with card 305, because card 303 is in proximity of card 305. Furthermore, card 305, can detect (communicate directly) with card 303, because card 305 is in proximity of card 303. Thus, the rejections are proper and remain.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

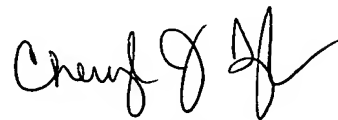
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571)272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHY



CHERYL TYLER
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